

CCRB INVESTIGATIVE RECOMMENDATION

Investigator: Ben Gilmore	Team: Team # 4	CCRB Case #: 201306122	<input type="checkbox"/> Force	<input type="checkbox"/> Discourt.	<input type="checkbox"/> U.S.
			<input checked="" type="checkbox"/> Abuse	<input type="checkbox"/> O.L.	<input type="checkbox"/> Injury
Incident Date(s) Tuesday, 07/09/2013 7:15 PM	Location of Incident: Francis Lewis Boulevard and 73rd Avenue	Precinct: 107	18 Mo. SOL 1/9/2015	EO SOL 1/9/2015	
Date/Time CV Reported Wed, 07/10/2013 8:37 AM	CV Reported At: CCRB	How CV Reported: Call Processing System	Date/Time Received at CCRB Wed, 07/10/2013 8:37 AM		

Complainant/Victim	Type	Home Address

Subject Officer(s)	Shield	TaxID	Command
1. POM Kevin Tresham	02546	935868	107 PCT
2. POM William Parker	29981	935465	107 PCT
3. LT Eric Robinson	00000	934118	107 PCT

Witness Officer(s)	Shield No	Tax No	Cmd Name
1. SGT William Wanamaker	05547	916887	107 PCT

Officer(s)	Allegation	Investigator Recommendation
A.LT Eric Robinson	Abuse: Lt. Eric Robinson authorized the stop of § 87(2)(b) and § 87(2)(b) § 87(2)(b)	
B.POM Kevin Tresham	Abuse: PO Kevin Tresham frisked § 87(2)(b)	
C.POM Kevin Tresham	Abuse: PO Kevin Tresham searched § 87(2)(b)	
D.POM William Parker	Abuse: PO William Parker frisked § 87(2)(b) § 87(2)(b)	
E.POM William Parker	Abuse: PO William Parker searched § 87(2)(b) § 87(2)(b)	
§ 87(4-b), § 87(2)(g)		

Case Summary

On July 10, 2013, § 87(2)(b) filed this complaint via the CCRB Call Processing System. On July 9, 2013, at approximately 7:15 PM, § 87(2)(b) and his son, § 87(2)(b) were walking north on the sidewalk alongside Francis Lewis Boulevard, towards the intersection of Francis Lewis Boulevard and 73rd Avenue in Queens. The following allegations resulted:

- **Allegation A: Abuse of Authority—Lt. Eric Robinson authorized the stop of** § 87(2)(b)

and § 87(2)(b) § 87(2)(b)

§ 87(2)(b), § 87(2)(g)

- **Allegation B: Abuse of Authority—PO Kevin Tresham searched** § 87(2)(b)

- **Allegation C: Abuse of Authority—PO Kevin Tresham frisked** § 87(2)(b)

§ 87(2)(b), § 87(2)(g)

- **Allegation D: Abuse of Authority—PO William Parker frisked** § 87(2)(b) § 87(2)(b)

- **Allegation E: Abuse of Authority—PO William Parker searched** § 87(2)(b) § 87(2)(b)

§ 87(2)(b), § 87(2)(g)

- § 87(2)(g), § 87(4-b)

On July 18, 2013, § 87(2)(b) was offered mediation in person, but § 87(2)(b) elected to have his complaint investigated.

Results of Investigation

Civilian Statements

Complainant/Victim: § 87(2)(b)

- § 87(2)(b) is a § 87(2)(b)

- § 87(2)(b)

CCRB Statements:

§ 87(2)(b) filed his complaint via the CCRB Call Processing System on July 10, 2013. § 87(2)(b) provided a telephone statement to the CCRB on July 11, 2013 (encl. 6). § 87(2)(b) was interviewed at the CCRB on July 18, 2013 (encl. 7a-f). On October 2, 2013, § 87(2)(b) viewed a photo array at the CCRB (encl. 8a-j). § 87(2)(b)'s statements were consistent and are summarized below.

On July 9, 2013, at approximately 7:15PM, § 87(2)(b) and his son, § 87(2)(b) left their apartment, which is located at § 87(2)(b) in Queens, and were going for a walk to City Park, which is located at 190th and Horace Harding Expressway. § 87(2)(b) was wearing black cargo pants, black sneakers, and a gray Nike t-shirt. § 87(2)(b) was holding a black hat, keys, and a washcloth in his hands, and had two cans of pepper spray, one in each of his cargo pockets. Both cans of pepper spray were about four inches long, one was about the width of a quarter, and the other was slightly wider. § 87(2)(b) also had a pocketknife in his cargo pants pocket which has a blade of approximately 3 inches. § 87(2)(b) was wearing a yellow shirt and brown pants. § 87(2)(b) carried a canister of pepper spray and keys, both of which were in his pants pockets.

From the time § 87(2)(b) and § 87(2)(b) left their apartment, they did not make any stops, other than briefly pausing to look at a dead raccoon which was lying in the street. § 87(2)(b) and § 87(2)(b) were walking north, on the west-side of Francis Lewis Boulevard, between 73rd Avenue and Horace Harding Expressway, when an unmarked police vehicle, a black sedan, pulled over next to them.

Three plainclothes police officers, PO1-PO3, exited the vehicle and approached § 87(2)(b) and § 87(2)(b). PO1 was a white male, 6'2" tall, 250 pounds, brown hair or perhaps bald, approximately 35-years-old, who was wearing a blue shirt and jeans, and was riding in the passenger's seat. The investigation identified PO1 as Sgt. William Wanamaker of the 107th Precinct. PO2 was a white male, 5'7" tall, 190 pounds, muscular, dark hair, approximately 30-years-old, wearing blue jeans, looked like Matt Damon, and was the driver of the vehicle. The investigation identified PO2 as PO Kevin Tresham of the 107th Precinct. PO3 was a white male, 6'1" tall, muscular, 200 pounds, approximately 30-years-old, and looked like Ryan Reynolds. The investigation identified PO3 as PO William Parker of the 107th Precinct.

Sgt. Wanamaker asked § 87(2)(b) basic questions like how they were doing, and then asked if § 87(2)(b) or § 87(2)(b) had observed a fight. § 87(2)(b) said that they had not observed a fight, and explained that they were out for a walk. PO Parker asked for § 87(2)(b)'s ID. § 87(2)(b) handed PO Parker his retired § 87(2)(b) ID card and his New York State driver's license. PO Parker asked § 87(2)(b) for his ID, and § 87(2)(b) handed him his New York State driver's license. Sgt. Wanamaker took both IDs and went to the unmarked police vehicle.

PO Tresham asked if the officers could search § 87(2)(b) and § 87(2)(b). § 87(2)(b) felt obligated to say yes, and so he agreed to allow the officers to search him and § 87(2)(b). § 87(2)(b) did not provide a verbal response. § 87(2)(b) informed PO Tresham that he had pepper spray and a small pocketknife in his pockets. PO Tresham asked where those items were, and § 87(2)(b) told him. PO Tresham reached into § 87(2)(b)'s right cargo pocket and pulled out one canister of pepper spray and the pocketknife. PO Tresham frisked § 87(2)(b)'s front and back pants pockets, and around § 87(2)(b)'s waist. PO Tresham reached inside § 87(2)(b)'s front pants pockets.

§ 87(2)(b) looked to his left and observed PO Parker patting down and then reaching deep into the front and back pants pockets of § 87(2)(b). Sgt. Wanamaker remained in the car with their IDs for approximately 15 minutes, and then returned from the car and handed back to § 87(2)(b) and § 87(2)(b) their IDs. The officers left the scene. Neither § 87(2)(b) nor § 87(2)(b) was arrested or issued a summons as a result of the incident.

Photo viewing:

On October 2, 2013, § 87(2)(b) viewed photos at the CCRB (encl. 8a-j). § 87(2)(b) was shown ten single officer photos, labeled A-J. Photos A, E, and I were photos of known subject officers. The rest of the photos were fillers, and were not subject officers. Photo A was of Sgt. Wanamaker, Photo E was of PO Parker, and Photo I was of PO Tresham.

§ 87(2)(b) selected Photo A (Sgt. Wanamaker). § 87(2)(b) recognized Sgt. Wanamaker as the officer who was in the passenger's seat, the officer that questioned § 87(2)(b) and § 87(2)(b) about a fight, and as the officer that took his and § 87(2)(b)'s IDs. § 87(2)(b) selected Photo E (PO Parker). § 87(2)(b) recognized PO Parker as the officer who frisked and searched § 87(2)(b). § 87(2)(b) selected Photo B. The officer depicted in photo B was the officer who frisked and searched § 87(2)(b).

PO Tresham, the other officer determined to be at the scene, was not selected by § 87(2)(b). PO Tresham is similar in appearance to the officer depicted in photo B—both are white males with short brown hair.

Victim: § 87(2)(b) § 87(2)(b)

- § 87(2)(b) is a § 87(2)(b).
- § 87(2)(b) is § 87(2)(b).

CCRB Statements:

§ 87(2)(b) § 87(2)(b) was interviewed at the CCRB on July 18, 2013 (encl. 9a-e). On October 2, 2013, § 87(2)(b) viewed a photo array at the CCRB (encl. 10a-k). § 87(2)(b)'s statements were fairly consistent except where noted below.

On July 9, 2013, at approximately 7:15PM, § 87(2)(b) was on a walk with his father, § 87(2)(b). They began the walk from their apartment, which is located at § 87(2)(b) in Queens. § 87(2)(b) was wearing a yellow shirt and brown pants. § 87(2)(b) had his wallet, which contained his New York State driver's license, and a canister of pepper spray in his front right pants pocket. He had a small pair of binoculars in his front left pants pocket.

§ 87(2)(b) and § 87(2)(b) were walking down Francis Lewis Boulevard when an unmarked, light blue sedan parked next to them. Three plainclothes officers, PO1-PO3, exited the vehicle. PO1 was a white male, muscular, 5'11" tall, with a bald head. The investigation identified PO1 as Sgt. William Wanamaker of the 107th Precinct. PO2 was a white male, 5'9" tall, with a bald head. The investigation identified PO2 as PO Kevin Tresham of the 107th Precinct. PO3 was a white male, and had dark hair. The investigation identified PO3 as PO William Parker of the 107th Precinct. One of the officers asked § 87(2)(b) and § 87(2)(b) how they were doing and explained that they had received reports of a fight. § 87(2)(b) said they did not know anything about a fight, that they were just walking.

PO Parker asked if he could search § 87(2)(b)'s and § 87(2)(b)'s pockets. Upon hearing the request, § 87(2)(b) looked upset, but he told PO Parker that the officers could search their pockets. Sgt. Wanamaker approached § 87(2)(b) but § 87(2)(b) did not see the interaction between them. PO Parker approached § 87(2)(b) and asked what he had inside of his pockets. § 87(2)(b) stated that they both were carrying pepper spray. PO Parker patted down § 87(2)(b)'s front and back pants pockets. PO Parker reached deep inside § 87(2)(b)'s front and back pants pockets and pulled out the binoculars that were in § 87(2)(b)'s front left pants pocket, and his wallet which was in his front right pants pocket. PO Parker did not pull out the canister of pepper spray.

PO Parker took § 87(2)(b)'s New York State driver's license out of his wallet and handed it to Sgt. Wanamaker. Sgt. Wanamaker took the ID and went to the unmarked vehicle. A

few minutes later, Sgt. Wanamaker returned with § 87(2)(b)'s ID. Sgt. Wanamaker said, "Sorry," and handed the ID back to § 87(2)(b). Neither § 87(2)(b) or § 87(2)(b) was arrested, nor did either receive a summons as a result of the incident.

Photo viewing:

On October 2, 2013, § 87(2)(b) § 87(2)(b) viewed photos at the CCRB (encl. 10a-k). § 87(2)(b) was shown ten individual officer photos, labeled 1-10. Photo 2, Photo 6, and Photo 8 were known subject officers. The rest of the photos were fillers, and were not subject officers. Photo 2 was of PO Parker, Photo 6 was of PO Tresham, and Photo 8 was of Sgt. Wanamaker. § 87(2)(b) § 87(2)(b) selected Photo 2 (PO Parker). § 87(2)(b) recognized PO Parker as the officer who frisked and searched him. § 87(2)(b) selected Photo 4. § 87(2)(b) recognized the officer depicted in Photo 4 as the officer who frisked and searched § 87(2)(b). § 87(2)(b) selected Photo 8 (Sgt. Wanamaker). § 87(2)(b) recognized Sgt. Wanamaker as the officer who frisked and searched § 87(2)(b) and as the officer who took § 87(2)(b)'s and § 87(2)(b)'s IDs.

NYPD Statements:

Subject Officer: LT. ERIC ROBINSON

- *Lt. Eric Robinson is a § 87(2)(b) during the time of the incident.*
- *On July 9, 2013, Lt. Eric Robinson worked 06:00 x 22:35 as the Special Operations Lieutenant. He was dressed in plainclothes, worked alone, and was assigned an unmarked black Ford Taurus.*

Memo book: (encl. 11ab)

Lt. Robinson's memo book indicates that on July 9, 2013, at 6:45PM he got out of his vehicle at Cunningham Park. He was observing two males looking at parked cars near the baseball field. At 7:15PM, Lt. Robinson notified 107th Precinct conditions via phone to 85 (additional units) at Francis Lewis Boulevard and 73rd Avenue. The males were looking at parked cars as well as looking around to see if they were being watched. At 7:30PM, 107th Precinct conditions arrived, and Lt. Robinson resumed patrol.

CCRB Statement:

Lt. Eric Robinson was interviewed at the CCRB on September 17, 2013 (encl. 12a-c). On July 9, 2013, at approximately 6:45PM, Lt. Robinson took out a vehicle and was driving north on Francis Lewis Boulevard, along Cunningham Park. Part of the reason Lt. Robinson was driving around was to address a chronic issue of car break-ins around Cunningham Park. Lt. Robinson explained that car break-ins constitute a condition which impacts the precinct all the time. Lt. Robinson said that more often than not, no tools are used to break into the vehicles, because people often leave their vehicles unlocked. Lt. Robinson presented a statistics sheet from the 107th Precinct. It indicated that in a one-month period in 2013, from mid-August to September, there were 38 grand larcenies within the confines of the 107th Precinct. Lt. Robinson explained that the grand larceny statistics include all types of grand larceny, i.e. credit card fraud, auto, etc. and the statistics were not delineated any further.

Lt. Robinson was driving north-bound on Francis Lewis Boulevard when he observed two individuals, identified by the investigation as § 87(2)(b) and § 87(2)(b) § 87(2)(b) walking on the sidewalk along the west-side of Francis Lewis Boulevard. There are many parked cars located on the west side of the street. No one else was walking on the sidewalk on the west side

of Francis Lewis Boulevard. § 87(2)(b) and § 87(2)(b) would take a couple of steps, look at a car, look over their shoulders, seemingly to see if anyone was watching them, and then keep walking.

Upon making this observation, Lt. Robinson parked his car and exited his vehicle. He attempted to blend in with a group of people who were on the east side of Francis Lewis Boulevard, watching a baseball game. Lt. Robinson was approximately 50-60 feet away from the two individuals and he continued to observe them. The sun was still up, so there was good lighting outside.

§ 87(2)(b) and § 87(2)(b) continued with their pattern of walking a few feet, and then stopping to look at a car. They appeared to be having a conversation, but Lt. Robinson could not hear what they were saying. Lt. Robinson did not see either § 87(2)(b) or § 87(2)(b) carrying anything. Neither § 87(2)(b) nor § 87(2)(b) put their face to the glass of any vehicle, nor did they make contact with any vehicle. They never entered a vehicle, they would just “leer” around vehicles. Lt. Robinson never observed the two individuals leave the sidewalk area or walk between or around any vehicles. The best way to describe the manner in which they were walking was “meandering.” They never changed direction, but sometimes they would stop, take a step or two back, and then keep walking forward. Lt. Robinson saw the two individuals look at 5-7 cars, although they passed by many more cars. Lt. Robinson observed the two individuals look over their shoulders, seemingly to check if anyone was looking, at least six times. Lt. Robinson was not watching them for every second—he would watch the baseball game, and then look across the street at the two individuals.

It took § 87(2)(b) and § 87(2)(b) approximately 15 minutes to walk a distance, which, if you “walked with purpose,” would take five minutes. Lt. Robinson feared that the two individuals would attempt to break into cars once they crossed 73rd Avenue because there are no baseball fields over there—that is to say, there are less people around—and many parked cars. Lt. Robinson’s overall observations, and the fact that § 87(2)(b) and § 87(2)(b) were about to cross 73rd Avenue, led him to believe that the two individuals needed to be stopped. Lt. Robinson was “100% confident they were casing the location,” and he “definitely had reasonable suspicion.”

Lt. Robinson explained that when he first observed § 87(2)(b) and § 87(2)(b) he thought, “Maybe they are smoking. Maybe they are on a date, and they’re just talking. I don’t know,” but something did not seem right. Because of this, Lt. Robinson gave them extra time, and after further observation, he determined that there “wasn’t one reason not to stop these guys.” Lt. Robinson listed the time of day, the location, and the two individuals’ actions as factors in coming to this determination. When asked if auto break-ins typically happen around the time when Lt. Robinson observed these individuals, he replied, “They happen all the time.” Apart from what he had already explained, there were no other factors which led Lt. Robinson to determine that the two individuals needed to be stopped.

Lt. Robinson did not feel equipped to stop the two individuals, because he was working alone and there were two individuals. Because of this, Lt. Robinson called his conditions team. Lt. Robinson spoke with Sgt. Wanamaker over the phone and told Sgt. Wanamaker that he wanted § 87(2)(b) and § 87(2)(b) stopped. Lt. Robinson was 100% sure that he instructed Sgt. Wanamaker to stop the two individuals—the stop “is all on me.” Approximately 5 minutes later, Sgt. Wanamaker arrived at the scene. As soon as Lt. Robinson observed that Sgt. Wanamaker had approached § 87(2)(b) and § 87(2)(b) he left the scene.

Subject Officer: PO WILLIAM PARKER

- *PO Parker is a § 87(2)(b).*
- *On July 9, 2013, PO Parker worked in plainclothes from 1:30PM until 10:05PM. PO Parker was assigned to conditions, and worked with Sgt. Wanamaker and PO Tresham in an unmarked vehicle.*

Memo book: (encl. 13a-c)

PO William Parker's memo book indicates that on July 9, 2013, at 7:30PM, two black males were stopped at Francis Lewis Boulevard and 73rd Avenue. At 7:40PM, two reports were made regarding § 87(2)(b) § 87(2)(b) (§ 87(2)(b)) and § 87(2)(b) (§ 87(2)(b)), for car break-in, casing vehicles. No arrests were made.

UF250 regarding § 87(2)(b) (encl. 14a-b)

PO Parker prepared the UF250 regarding § 87(2)(b) and it was approved by Sgt. Wanamaker. The report indicates that § 87(2)(b) was stopped because he was suspected of grand larceny due to actions indicative of casing. § 87(2)(b) was frisked due to a suspicious bulge (cellphone in front pocket). § 87(2)(b) was searched due to a "hard object." § 87(2)(b)'s demeanor was "normal" and he said that he was "just walking around." An additional factor of 'area has a high incidence of reported offense' was checked.

UF250 regarding § 87(2)(b) § 87(2)(b) (encl. 14c-d)

PO Parker prepared the UF250 regarding § 87(2)(b) § 87(2)(b) and it was approved by Sgt. Wanamaker. The report indicates that § 87(2)(b) was stopped because he was suspected of grand larceny due to actions indicative of casing. § 87(2)(b) was frisked due to a suspicious bulge (binoculars in back pants pocket). § 87(2)(b) was searched because of a "hard object." § 87(2)(b)'s demeanor was normal and he did not make any comments.

CCRB Statement:

PO Parker was interviewed at the CCRB on September 11, 2013 (encl. 15a-c). On July 9, 2013, at approximately 7:15PM, PO Parker was in the back seat of an unmarked vehicle, while Sgt. Wanamaker was the recorder and PO Tresham was the operator. Sgt. Wanamaker received a call from Lt. Robinson who said that he witnessed two individuals, identified by the investigation as § 87(2)(b) and § 87(2)(b) § 87(2)(b) casing cars, and walking up and down the block. Lt. Robinson requested that they stop § 87(2)(b) and § 87(2)(b).

Approximately two minutes after receiving the call, PO Parker observed § 87(2)(b) and § 87(2)(b) walking north on the sidewalk of Francis Lewis Boulevard. § 87(2)(b) and § 87(2)(b) were the only two people who were walking on Francis Lewis Boulevard. Besides walking, § 87(2)(b) and § 87(2)(b) were not doing anything. There were no parked vehicles near where § 87(2)(b) and § 87(2)(b) were. Neither § 87(2)(b) nor § 87(2)(b) was carrying anything.

Immediately upon observing § 87(2)(b) and § 87(2)(b) PO Tresham pulled the car over, and the three officers exited the vehicle. PO Parker did not know whose decision it was to approach § 87(2)(b) and § 87(2)(b). PO Parker said that once they got the call from Lt. Robinson, the "decision was pretty much already made." PO Parker asked § 87(2)(b) and § 87(2)(b) what was going on, what they were doing. They responded that they were taking a walk, and that they lived about a mile south. § 87(2)(b) and § 87(2)(b) were cooperative.

PO Parker noticed a suspicious bulge in § 87(2)(b)'s pocket. PO Parker did not remember anything about the bulge, and he requested to review the UF250 prepared for § 87(2)(b).

§ 87(2)(b) PO Parker read from the UF250 that he observed a suspicious bulge in § 87(2)(b)'s front pocket, and that it turned out to be a cell phone. PO Parker said the bulge was the size of a cell phone. PO Parker did not remember the shape of the bulge. When asked what was suspicious about the bulge PO Parker said that it was just a bulge protruding from the pocket.

PO Parker frisked § 87(2)(b). Aside from the suspicious bulge, there was nothing else that led PO Parker to frisk § 87(2)(b). PO Parker frisked the bulge, and he might have frisked around the waistband, but he did not remember. PO Parker patted the bulge and determined that it was a hard object. PO Parker had no idea what the object was. PO Parker did not recall if he went into the pocket to retrieve the unidentified object, and he requested to review the UF250. PO Parker confirmed that he did search § 87(2)(b). There were no other reasons, aside from feeling the hard object, for reaching inside of § 87(2)(b)'s pocket. The object turned out to be a cellphone.

PO Parker observed a suspicious bulge from § 87(2)(b)'s back pocket. PO Parker was able to observe the bulge "from the side, I guess," but he did not remember how he observed it. PO Parker said that the bulge was the "same size," but he could not recall anything else about the bulge. PO Parker frisked § 87(2)(b). PO Parker frisked the bulge in § 87(2)(b)'s back pocket, but he did not learn anything about the object causing the bulge. PO Parker had no idea what the object was, so he reached his hand inside the pocket and discovered that it was a pair of binoculars.

PO Parker did not recall if it was § 87(2)(b) or § 87(2)(b) who was frisked and searched first. At some point during the incident, an officer requested identification from § 87(2)(b) and § 87(2)(b). While reviewing the UF250s prepared for § 87(2)(b) and § 87(2)(b), PO Parker said that § 87(2)(b) provided a photo ID and § 87(2)(b) provided a temporary license with no photo. Either Sgt. Wanamaker or PO Tresham ran their names for warrants, but PO Parker could not remember who ran the warrant check. PO Parker did not recall if the IDs were requested before or after the frisks and searches.

PO Parker did not ask for permission to frisk or search § 87(2)(b) or § 87(2)(b) nor did he hear PO Tresham or Sgt. Wanamaker request permission. For the entirety of the interaction, § 87(2)(b) and § 87(2)(b) were calm and cooperative. PO Parker, PO Tresham, and Sgt. Wanamaker returned to their vehicle and left the location.

Subject Officer: PO KEVIN TRESHAM

- *PO Tresham is a § 87(2)(b).*
- *On July 9, 2013, PO Tresham was working in plainclothes from 5:30PM until 2:05AM on July 10, 2013. PO Tresham worked with PO Parker and Sgt. Wanamaker, and was assigned an unmarked vehicle.*

Memo book: (encl. 16a-c)

PO Tresham did not have any memo book entries related to the incident. On July 9, 2013, he recorded no entries between 7:00PM and 7:58PM.

CCRB Testimony:

PO Tresham was interviewed at the CCRB on September 19, 2013 (encl. 17a-c). On July 9, 2013, at approximately 7:15PM, PO Tresham was operating an unmarked gray vehicle, with Sgt. Wanamaker in the passenger's seat, and PO Parker in the back seat when Sgt. Wanamaker received a call from Lt. Robinson. Sgt. Wanamaker reported that Lt. Robinson was conducting routine surveillance of the area due to a robbery pattern of grand larcenies, including vehicle break-ins. Sgt. Wanamaker said that Lt. Robinson had identified two individuals walking, and

that they were to respond to the location, and stop the two individuals. The investigation identified the two individuals as § 87(2)(b) and § 87(2)(b) § 87(2)(b).

Sgt. Wanamaker then instructed PO Tresham to pull over next to § 87(2)(b) and § 87(2)(b) saying that they were the individuals to be stopped. PO Tresham did not recall how long they observed § 87(2)(b) and § 87(2)(b) prior to Sgt. Wanamaker's instruction to stop them. When PO Tresham observed them, they were walking on the west side sidewalk of Francis Lewis Boulevard. PO Tresham did not recall the manner or the pace at which § 87(2)(b) and § 87(2)(b) were walking, but nothing about the way they were walking stood out to PO Tresham. Aside from walking on the sidewalk, PO Tresham did not observe either § 87(2)(b) or § 87(2)(b) doing anything. PO Tresham did not recall if either individual was carrying anything with them. There were parked cars along the area where they were walking, but PO Tresham did not recall how many cars were parked near § 87(2)(b) and § 87(2)(b). PO Tresham did not recall if there were any other people on the sidewalk. Aside from Sgt. Wanamaker's instruction to stop § 87(2)(b) and § 87(2)(b), PO Tresham did not observe anything that would have led him to stop them.

PO Tresham stopped his vehicle near § 87(2)(b) and § 87(2)(b) on the same side of the street (west-side). All three officers exited the vehicle and approached. PO Parker and Sgt. Tresham were closer to § 87(2)(b) and § 87(2)(b) than PO Tresham, but they were all in close proximity. The two individuals were compliant and cooperative. PO Tresham did not recall if the two individuals made any physical movements during the interaction. When asked if PO Tresham could see the individuals' hands, he said, "That's kind of general. They weren't trying to be concealing anything." During his interaction with the two individuals, PO Tresham never made any observation which led him to fear for his safety.

After about 1-2 minutes from the time the officers approached § 87(2)(b) and § 87(2)(b), PO Parker frisked one of them, but PO Tresham did not recall which individual PO Parker frisked. PO Tresham said that PO Parker was concerned about a bulge in, "One of the individual's pockets or waist-line region." PO Tresham did not recall which individual had the bulge with which PO Parker was concerned. PO Tresham did not observe the bulge. PO Tresham came to learn about the bulge later, although he could not recall if he learned about it during the course of the incident or after the incident transpired. PO Tresham did not recall in which pocket the suspicious bulge was located. PO Tresham observed PO Parker "frisk the general outline of the waist-band and the pants." PO Parker removed a pair of binoculars from the individual's pocket, but PO Tresham did not recall from which pocket the binoculars were removed.

PO Parker then frisked the other individual (either § 87(2)(b) or § 87(2)(b)). PO Tresham was not sure why PO Parker frisked the other individual. PO Parker frisked the waist-line and pants of this individual. PO Tresham did not recall if PO Parker reached inside of the pockets of this individual. PO Tresham did not recall if PO Parker removed any items from this individual's pockets.

While PO Parker frisked § 87(2)(b) and § 87(2)(b), PO Tresham and Sgt. Wanamaker were taking note of the surrounding area, and "provided the extra set of eyes." PO Tresham never made physical contact with § 87(2)(b) or § 87(2)(b). PO Tresham did not recall if Sgt. Wanamaker ever made physical contact with either § 87(2)(b) or § 87(2)(b). PO Tresham thinks that a warrant check was run but he could not recall "the means by which it was done by." PO Tresham did not run the warrant check. It is possible that Sgt. Wanamaker ran a warrant check, but PO Tresham was not sure. No summons was issued, nor was an arrest made. § 87(2)(b) and § 87(2)(b) were compliant and cooperative during the entire interaction. The officers returned to their vehicle and left the location.

Witness Officer: SGT. WILLIAM WANAMAKER

- *Sgt. Wanamaker is a § 87(2)(b).*
- *On July 9, 2013, Sgt. Wanamaker worked in plainclothes from 5:15PM until 2:12AM on July 10, 2013. Sgt. Wanamaker was the anti-crime sergeant, who was working with PO Tresham and PO Parker, and was assigned an unmarked vehicle.*

Memo book: (encl. 18a-c)

Sgt. William Wanamaker's memo book indicates that on July 9, 2013, at 7:15PM, a call for additional units at 73rd Avenue and Francis Lewis Boulevard was made by the Special Operations Lieutenant and Commanding Officer. At 7:30PM, two males were stopped at 73rd Avenue and Francis Lewis Boulevard. At 7:40PM, two UF250 reports were prepared for § 87(2)(b) § 87(2)(b) § 87(2)(b)) and § 87(2)(b) § 87(2)(b) by PO Parker for GLA-- casing autos in the vicinity of Cunningham Park. Two reports were prepared, and no arrest was made.

CCRB Statement:

Sgt. Wanamaker was interviewed at the CCRB on September 10, 2013 (encl. 19a-b). On July 9, 2013, at approximately 7:15PM, Sgt. Wanamaker received a call on his cellphone from Lt. Robinson. Lt. Robinson said that he was following two males who he believed were breaking into cars. Lt. Robinson did not say why he suspected the two males of breaking into autos. Sgt. Wanamaker did not recall if there was any further description provided of the two males, other than they were black. Lt. Robinson stated that he wanted Sgt. Wanamaker to stop them, and that the two individuals were heading north on Francis Lewis Boulevard.

Sgt. Wanamaker was the recorder of an unmarked dark-blue Chevy Impala, PO Kevin Tresham was the driver, and PO William Parker was in the back seat. They responded to the call, and observed only two people walking on Francis Lewis Boulevard, and they were black males. Sgt. Wanamaker observed the two individuals, who he later learned to be § 87(2)(b) and § 87(2)(b) § 87(2)(b) for approximately one minute. During that time, Sgt. Wanamaker saw § 87(2)(b) and § 87(2)(b) walking up the block, and he did not observe either individual doing anything else. Sgt. Wanamaker did not recall if § 87(2)(b) or § 87(2)(b) were carrying anything.

After observing § 87(2)(b) and § 87(2)(b) for one minute, Sgt. Wanamaker made the decision to approach them. Sgt. Wanamaker decided to approach them based on an order that he was given by Lt. Robinson.

PO Tresham pulled the vehicle alongside § 87(2)(b) and § 87(2)(b) and all three officers exited the vehicle and approached § 87(2)(b) and § 87(2)(b). The entire interaction with § 87(2)(b) and § 87(2)(b) lasted approximately 3-5 minutes. During that time, everyone stood in the same position. Sgt. Wanamaker was standing next to PO Tresham and PO Parker, next to their vehicle, in the street. § 87(2)(b) and § 87(2)(b) were standing directly in front of them, on the sidewalk. During his interaction with § 87(2)(b) and § 87(2)(b) there was nothing that led Sgt. Wanamaker to fear for his safety. § 87(2)(b) and § 87(2)(b) were both calm and cooperative.

Upon approaching § 87(2)(b) and § 87(2)(b) Sgt. Wanamaker spoke first. He identified himself as a police officer and asked them what they were doing and where they were going. They responded that they had been working on a car near their apartment, further south on Francis Lewis Boulevard, and were now walking to their friend's house. Sgt. Wanamaker said that after he spoke to them, "we had no grounds to do anything further," and sent them on their way.

Sgt. Wanamaker said that he took no further action in regards to § 87(2)(b) or § 87(2)(b) but that it was possible another officer did a pat-down—however, he could not remember for certain. Sgt. Wanamaker was shown copies of the UF250s which were prepared for § 87(2)(b) and § 87(2)(b). Sgt. Wanamaker said that the UF250s did not improve his memory of the incident. Sgt. Wanamaker did not recall observing either § 87(2)(b) or § 87(2)(b) with a suspicious bulge.

Sgt. Wanamaker did not recall observing either § 87(2)(b) or § 87(2)(b) being frisked, but he acknowledged that he likely did observe the frisks. Sgt. Wanamaker believes he likely observed the frisks because he was there with PO Tresham and PO Parker, and the UF250s indicate that § 87(2)(b) and § 87(2)(b) were frisked. Sgt. Wanamaker did not recall if he observed an officer go inside of the pockets of either § 87(2)(b) or § 87(2)(b). At some point during the interaction, either PO Parker or PO Tresham asked § 87(2)(b) and § 87(2)(b) for their IDs.

The incident concluded with Sgt. Wanamaker explaining that there had been problems with autos being broken into in the area. Sgt. Wanamaker, PO Tresham, and PO Parker returned to their vehicle and exited the location.

Status of Civil Proceedings (encl. 29b)

- The New York City Comptroller's Office indicated that as of December 9, 2013, a notice of claim was not filed by either § 87(2)(b) or § 87(2)(b) § 87(2)(b) regarding this incident.

§ 87(2)(b)

§ 87(2)(b)

§ 87(2)(b)

§ 87(2)(b)

Subject Officers CCRB History

- Lt. Eric Robinson has been a member of the service for 10 years and there are three substantiated CCRB allegations against him (encl. 3a).
 - In CCRB case number 200412910 a 'Refusal to provide name/shield number' allegation and a 'Retaliatory arrest' allegation were substantiated, and the CCRB recommended charged. NYPD issued Lt. Robinson instructions.
 - In CCRB case number 200610087 a 'Premises entered and/or searched' allegation was substantiated, and the CCRB recommended charges. Lt. Robinson pled guilty and was issued 'command discipline B.'
- PO William Parker has been a member of service for 9 years and there are no substantiated CCRB allegations against him (encl. 3b).
- PO Kevin Tresham has been a member of service for 9 years and there are no substantiated CCRB allegations against him (encl. 3c).

Conclusion

Identification of Subject Officers

It is undisputed that there were three officers at the scene of the incident and that they were Sgt. Wanamaker, PO Parker, and PO Tresham.

PO Parker, PO Tresham, and Sgt. Wanamaker all stated that Lt. Robinson instructed them to stop § 87(2)(b) and § 87(2)(b). Lt. Robinson stated that he was 100% sure that he instructed Sgt. Wanamaker to stop § 87(2)(b) and § 87(2)(b) and Lt. Robinson added, “The stop is all on me.” Allegation A is therefore pleaded against Lt. Robinson.

PO Parker and PO Tresham both stated that PO Parker was the officer who frisked and searched § 87(2)(b). Both § 87(2)(b) and § 87(2)(b) selected PO Parker during their respective photo viewings and stated that PO Parker was the officer who frisked and searched § 87(2)(b). Allegations D and E are therefore pled against PO Parker.

PO Tresham and Sgt. Wanamaker both denied ever making contact with § 87(2)(b) and PO Parker reported that he frisked and searched § 87(2)(b). However, in their photo array viewings, both § 87(2)(b) and § 87(2)(b) selected PO Parker as the officer who frisked and searched § 87(2)(b) and specifically *not* the officer who frisked and searched § 87(2)(b). Both § 87(2)(b) and § 87(2)(b) consistently stated that it was distinct officers who frisked and searched them. § 87(2)(b) described the officer who frisked and searched him as the driver of the police vehicle. It is undisputed that PO Tresham was the driver of the police vehicle. § 87(2)(b) described the officer who frisked and searched him as a white male, 5’7” tall, 190 pounds, approximately 30 years old, with dark hair, which is consistent with the description of PO Tresham and distinct from PO Parker. PO Tresham is a white male who stands 5’7” tall, weighs 180 pounds, is 34 years old, with brown hair. PO Parker is a white male who stands 5’9” tall, weighs 205 pounds, is 37 years old, with a completely bald head.

Given the consistent statements of § 87(2)(b) and § 87(2)(b) that the officer who frisked and searched § 87(2)(b) was different than the officer that frisked and searched § 87(2)(b) that both § 87(2)(b) and § 87(2)(b) selected PO Parker as the officer who did not frisk or search § 87(2)(b) and that § 87(2)(b)’s description of the officer who frisked and searched him closely matches the description of PO Tresham, Allegations B and C are pled against PO Tresham.

Investigative Findings and Recommendations

- **Allegation A: Abuse of Authority—Lt. Eric Robinson authorized the stop of § 87(2)(b) and § 87(2)(b).**

It is undisputed that § 87(2)(b) and § 87(2)(b) were walking north-bound on the sidewalk on the west side of Francis Lewis Boulevard, that Lt. Robinson ordered Sgt. Wanamaker to stop § 87(2)(b) and § 87(2)(b) and that Sgt. Wanamaker, PO Tresham, and PO Parker stopped § 87(2)(b) and § 87(2)(b). It is undisputed that § 87(2)(b) and § 87(2)(b) did not change directions, leave the sidewalk, walk between or around any cars, or make contact with any cars in the area. It is further undisputed that neither § 87(2)(b) nor § 87(2)(b) was carrying any tools or items that appeared to be stolen.

§ 87(2)(b), § 87(2)(g) and § 87(2)(b) testified that they were walking and had not made any stops, with the one exception according to § 87(2)(b) when he and § 87(2)(b) stopped to look at a dead raccoon which was lying in the street. Sgt. Wanamaker, PO Tresham, and PO Parker did not observe § 87(2)(b) or § 87(2)(b) do anything but walk prior to effecting the stop.

People v. DeBour, 40 N.Y.2d 210 (1976) (encl. 1a-k) states that an officer must harbor reasonable suspicion that the stopped individual engaged, was engaging in, or was about to engage in a crime classified as a felony or misdemeanor under New York State Penal Law. Debour further states that innocuous behavior alone will not generate reasonable suspicion that a crime is at hand.

§ 87(2)(b), § 87(2)(g)

§ 87(2)(b), § 87(2)(g)

• **Allegation B: Abuse of Authority—PO Kevin Tresham searched** § 87(2)(b)

It is undisputed that an officer searched § 87(2)(b). As discussed in the ‘Identification of Subject Officers’ section, § 87(2)(b), § 87(2)(g) and § 87(2)(b) testified that PO Tresham gained their consent to search § 87(2)(b). Sgt. Wanamaker, PO Tresham, and PO Parker denied remembering any officer requesting permission to search § 87(2)(b) or § 87(2)(b) otherwise providing his consent to be searched.

People v. Hollman 79 N.Y.2d 181 (1992) (encl. 2a-h) states that an officer must have founded suspicion that criminality is afoot to request permission to search.

Sgt. Wanamaker said that after stopping § 87(2)(b) and asking him and § 87(2)(b) some basic questions, “We had no grounds to do anything further.” Neither Sgt. Wanamaker, PO Tresham, nor PO Parker made any observations which suggested criminality was afoot. Moreover, § 87(2)(b)’s demeanor was calm and cooperative.

§ 87(2)(g)

• **Allegation C: Abuse of Authority—PO Kevin Tresham frisked** § 87(2)(b)

It is undisputed that an officer frisked § 87(2)(b). As discussed in the ‘Identification of Subject Officers’ section, the investigation determined that PO Kevin Tresham frisked § 87(2)(b).

PO Parker provided the basis for the frisk, saying that he observed a bulge in § 87(2)(b)’s front pocket. PO Parker said the bulge was the size of a cell phone. PO Parker did not remember

the shape of the bulge. When asked what was suspicious about the bulge PO Parker said that it was just a bulge protruding from the pocket. PO Tresham reported that during his interaction with § 87(2)(b) he never observed a bulge and he never made any observation which led him to fear for his safety. Sgt. Wanamaker did not recall observing either § 87(2)(b) or § 87(2)(b) with a suspicious bulge.

People v. DeBour, 40 N.Y.2d 210 (1976) (encl. 1a-k) states that in order to frisk an individual, an officer must harbor reasonable suspicion that the individual is in possession of a weapon.

§ 87(2)(b), § 87(2)(g)

- **Allegation D: Abuse of Authority—PO William Parker frisked** § 87(2)(b) § 87(2)(b)

It is undisputed that PO Parker's interaction with § 87(2)(b) was prompted by a call from Lt. Robinson stating he suspected that § 87(2)(b) was about to engage in grand larceny auto. It is undisputed that PO Parker frisked § 87(2)(b) § 87(2)(b) and that § 87(2)(b)'s demeanor throughout the interaction was calm and cooperative.

PO Parker testified that he observed a suspicious bulge in § 87(2)(b)'s back pocket which led him to frisk § 87(2)(b). Lt. Robinson, Sgt. Wanamaker, and PO Tresham made no observations which led them to fear for their safety, and none of them observed a suspicious bulge. § 87(2)(b) testified that he was carrying a pair of binoculars, a canister of pepper spray, and his wallet in his pants pockets.

People v. DeBour, 40 N.Y.2d 210 (1976) (encl. 1a-k) states that in order to frisk an individual, an officer must harbor reasonable suspicion that the individual is in possession of a weapon.

PO Parker reported that he frisked § 87(2)(b) due to a bulge in § 87(2)(b)'s back pocket, but he did not recall anything about the bulge. Even though PO Parker was standing face to face with § 87(2)(b) PO Parker was able to observe the bulge "from the side, I guess," but he did not remember how he observed it. PO Parker said that he had no idea what the object was, although he later learned that the object was a pair of binoculars. Lt. Robinson, Sgt. Wanamaker, and PO Tresham testified that they did not see the bulge. § 87(2)(b), § 87(2)(g)

§ 87(2)(g)

- **Allegation E: Abuse of Authority—PO William Parker searched** § 87(2)(b) § 87(2)(b)

It is undisputed that PO Parker searched § 87(2)(b) and § 87(2)(b) testified that PO Parker gained their consent to search § 87(2)(b). Sgt. Wanamaker, PO Tresham, and PO Parker denied remembering any officer requesting permission to search § 87(2)(b) or § 87(2)(b) otherwise providing his consent to be searched.

People v. Hollman 79 N.Y.2d 181 (1992) (encl. 2a-h) states that an officer must have founded suspicion that criminality is afoot to request permission to search.

People v. Rodriguez 856 N.Y.S.2d 502 (Sup. Bx. 2008) (encl. 21-p) states that a frisk to discover the presence of concealed weapons should not extend beyond its purpose of securing the safety of the officer, and that once the limited intrusion of a frisk fails to reveal a weapon, the search must stop.

Sgt. Wanamaker, PO Tresham, and PO Parker all reported that they interacted with § 87(2)(b) because Lt. Robinson reported that he suspected § 87(2)(b) was about to engage in grand larceny auto. Sgt. Wanamaker said that after stopping § 87(2)(b) and asking him and § 87(2)(b) some basic questions, “We had no grounds to do anything further.” Neither Sgt. Wanamaker, PO Tresham, nor PO Parker made any observations which suggested criminality was afoot. Moreover, § 87(2)(b)s demeanor was calm and cooperative.

PO Parker acknowledged frisking the bulge in § 87(2)(b)s pocket, and upon frisking the bulge, PO Parker “had no idea” what the object creating the bulge was. PO Parker testified that he did not learn anything about the object upon frisking it, and the UF250 report he prepared states that the bulge was caused by a “hard object.” PO Parker did not articulate that he suspected the object creating the bulge was a weapon; he simply did not know what it was.

§ 87(2)(b), § 87(2)(g)

§ 87(2)(b), § 87(2)(g)

- § 87(2)(g), § 87(4-b)

§ 87(2)(g), § 87(4-b)

Team: _____

Investigator: _____
Signature _____ Print _____ Date _____

Supervisor: _____
Title/Signature _____ Print _____ Date _____

Reviewer: _____
Title/Signature _____ Print _____ Date _____

Reviewer: _____

Title/Signature

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Date